



Comptroller of the Currency
Administrator of National Banks

Community Affairs
Department

Community Developments

Fact Sheet

Neighborhood Stabilization Program

Property Disposition: Affordable Housing Opportunities Under NSP

The U.S. Department of Housing and Urban Development (HUD) recently implemented the Neighborhood Stabilization Program (NSP). The program provides almost \$6 billion in funding in two phases for neighborhood stabilization. NSP funds efforts to acquire and redevelop foreclosed and vacant properties.¹ NSP requirements are very similar to the Community Development Block Grant program.² However, several additional restrictions apply to focus the program more narrowly toward stabilizing areas affected by foreclosures and vacant properties.

Banks are indirect participants in the NSP. Their role is limited to selling or donating properties to grant recipients or other entities or individuals who are participating in local NSP initiatives or providing financing for organizations or individuals purchasing REO properties with assistance from the NSP program.

NSP funds must be used for activities related to vacant or foreclosed properties. Funds are not restricted to acquisition and rehabilitation. Grantees can use NSP funds to purchase properties outright or offer financing programs—such as soft seconds, down payment grants, or rehabilitation loans—to qualified buyers.³ Grantees can purchase properties and sell, rent, or demolish them. After demolition, a property can be placed in a land bank to be repurposed as open space or held for future community development.⁴

Grantees must use one-quarter of their NSP funds for activities that assist individuals or families whose income is below 50 percent of area median income. To meet this requirement, many grantees are planning to use some of their acquired properties for low-income rental units.

Who Can Participate?

In the first round of NSP funding, HUD allocated \$3.92 billion to state and local government entities based on a formula that weighted need—but every state received some funding. In the second round, referred to as NSP2, HUD will award \$1.93 billion

¹ Division B, Title III of the Housing and Economic Recovery Act of 2008, Public Law 110-289, 122 Stat. 2654, enacted on July 30, 2008, provided \$3.92 billion in NSP funds for states and local communities. HUD issued a notice on October 6, 2008, FR Vol. 73, No. 194, page 58330 detailing the allocation method, waivers granted, requirements applied, and statutory program requirements. Title XII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115, enacted on February 17, 2009 authorized an additional \$2 billion in NSP2 funding. For more information, visit HUD's Web site at: <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>.

² See 24 CFR part 570.

³ Eligible activities for the NSP are described in detail in FR Vol. 73, No. 194 pages 58337-58338.

⁴ "Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks," Frank S. Alexander, Professor of Law, Emory University, April 2005.

under a competitive grant process.⁵ NSP2 competitive grants are open to state and local governments, nonprofit entities or consortia; and nonprofit entities partnering with for-profit entities. Competitive grants are to be used for areas with the greatest number and percentage of foreclosures. Awards will be based on criteria that HUD develops and legislative directives that consider grantee capacity, leveraging potential, and concentration of investment to achieve neighborhood stabilization.

The role of banks will be as partners with NSP grant recipients. Every residential property purchased from a bank with NSP funds must be discounted at least 1 percent below current market appraised value, whether the property will be sold to an NSP grantee, sub-recipient, developer, or individual home buyer.⁶ HUD encourages NSP grantees to negotiate with lenders for reduced sales prices reflecting avoided costs of holding, marketing, and selling the foreclosed property.

Appraisals must be completed within 60 days prior to the purchase offer. The appraisal must take into account the current condition of the property and conform to the Uniform Standards of Professional Appraisal Practice. However, appraisal valuations for low value properties, where the proposed acquisition price is \$25,000 or less, can be based on a review of available data and be performed by a person the grantee deems is qualified.⁷

⁵ For details on the competitive grant process for NSP2 visit: http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp2_no_fa.pdf. Under NSP-TA (Technical Assistance), \$50 million is allocated for national and local technical assistance providers to support NSP grantees with their efforts. HUD has authority to retain the balance for administrative uses.

⁶ Originally, HUD mandated a deeper discount of at least 5 percent with an average discount of 15 percent in the grantee's acquisition portfolio. HUD changed the required discount to increase participation and address concerns that discounted properties would negatively affect nearby home values. The NSP Federal Register Bridge notice making this change was published on June 19, 2009 at 74 Fed. Reg. 29225.

⁷ Ibid. 29226. Under NSP current market appraised value means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with requirements of the Uniform Relocation Act

What Are The Advantages Of Participation for Banks?

NSP funding expands market interest in foreclosed properties. Working with NSP grantees is another way to move non-earning Other Real Estate Owned (OREO) assets off of bank balance sheets. Banks should review the OCC's OREO accounting rules for more information about booking and selling OREO.⁸

An added benefit is that purchasers using NSP funds are focused on stabilizing communities. Many NSP grantees are targeting their activities to narrowly defined areas to maximize the stabilization impact. Banks may benefit if concentrated stabilization efforts improve values for neighboring properties that banks own as OREO or on which banks hold mortgages.

Banks that effectively manage foreclosed property (in their own portfolio or as servicers on behalf of investors) can minimize their reputation risk. The bank's name is associated with a foreclosure in the public eye, even if the bank is merely servicing the loan.

Banks with low-value properties may want to consider offering steeper discounts or making donations to NSP grantees to avoid the potential for greater losses in the future. NSP funds can be used to demolish properties in communities where there is low demand for homes or where properties are damaged beyond repair.

When an OREO property is sold at a reduced price or donated to a 501(c)(3) nonprofit organization, banks may benefit from a tax deduction for the amount of the in-kind donation, which is the difference between current market value and the property disposition price.⁹

at 49 CFR 24.103.

⁸ See "Interagency Guidance on Accounting for Dispositions of Other Real Estate Owned" <http://www.occ.treas.gov/ftp/bb/93-42a.txt>

⁹ See [IRS Publication 561](#), Determining the Value of Donated Property.

Considerations for Implementing A Property Disposition Strategy

As a general rule, banks have a fiduciary duty to stockholders and investors to maximize the net present value return on the sale of foreclosed properties. Disposition pricing decisions weigh such factors as projected holding costs and local market conditions (for example, whether inventories of for-sale homes are projected to rise or whether forecasts predict depreciating values). Typical holding costs include taxes, insurance, maintenance, marketing costs, listing fees, overhead, and interest.

Banks may conclude that reducing listing prices to sell properties more quickly can lower holding costs and achieve higher or equivalent net present value returns than potentially higher sales prices gained after lengthier exposure to the market. “Early look” or “first look” programs, where a bank offers a potential buyer an opportunity to bid on a property before it is publicly listed for sale, can avoid or reduce holding costs. Banks that service mortgages for investors should document their reduced pricing decisions or follow specific, approved methodologies.

Banks should also carefully evaluate the capacity and ability of the acquiring entity to manage properties in order to avoid potential reputation and legal risk. A bank may wish to execute a memorandum of understanding with the acquiring entity. The memorandum should outline the bank’s terms and conditions for the property transfer, as well as rights and responsibilities, including an agreement to complete rehabilitation in a timely manner.

The bank may consider providing other services, including credit facilities to cover rehabilitation cost, loan products for buyers, or financial education materials. A key challenge in the success of neighborhood stabilization efforts is finding rehabilitation and/or permanent financing with flexible underwriting.

NSP protects bona fide tenants who occupy foreclosed properties.¹⁰ Leases must be honored for

¹⁰ A mortgagor who remains in the property is not considered a bona fide tenant. The lease or tenancy must be an arms-

their full term (but can be terminated if there is a sale to an owner-occupant purchaser, so long as the tenant is given a 90-day advance notice to vacate). Tenants who do not have a lease or have a month-to-month lease must be given a 90-day advance notice to vacate. Uniform Relocation Act requirements are triggered if NSP funds are used to acquire tenant-occupied properties.¹¹

New Entity Helps Centralize Resources for Banks

Six leading nonprofit organizations have formed the National Community Stabilization Trust (NCST) to enable banks to work with a single entity.¹² NCST has strong relationships with many local organizations and government entities that will be involved with NSP’s community stabilization efforts. NCST also is developing procedures to facilitate transfers of foreclosed properties between banks and local nonprofit and government entities.

Community Reinvestment Act (CRA)

Although NSP grantees will deploy their funds in different ways, banks can partner in these stabilization efforts by engaging in CRA eligible activities that complement the strategies of the NSP grantees.

The CRA regulation provides the basis for assessing a bank’s record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank. CRA-eligible activities must meet the geographic requirements of the regulation by benefiting the bank’s assessment area or

length transaction with rent that is not substantially less than fair market rent for the property.

¹¹ See 49 CFR Part 24 and HUD Handbook 1378. For details, visit HUD’s Web sites at <http://www.hud.gov/offices/cpd/affordablehousing/training/web/relocation/overview.cfm>, and <http://www.hud.gov/offices/cpd/library/relocation/nsip/index.cfm>

¹² NCST’s sponsoring organizations are Enterprise Community Partners, Housing Partnership Network, Local Initiatives Support Corporation, NeighborWorks® America, National Council of La Raza, and National Urban League. For more information, visit NCST’s Web site at <http://www.stabilizationtrust.com>.

the broader statewide or regional area that includes the bank's assessment area.

Some activities related to the disposition of bank OREO may be eligible for positive consideration under CRA. Bank donations—either cash or “in-kind” property—to organizations whose primary purpose is consistent with the definition of community development in the CRA regulations may be considered CRA-qualified investments. For example, banks may donate, or sell at a discount, OREO properties to CRA-qualified organizations that have received NSP grants to purchase or rehabilitate these properties to provide affordable housing.

CRA consideration applies to the difference between current fair market value and the discounted sales price of the property. If the property is donated outright, then the property's current fair market value would be the amount of the in-kind donation.

For more information on CRA and the types of activities that are considered, refer to the CRA regulation and the Interagency Questions and Answers on Community Reinvestment. These documents are available on the OCC Web site at www.occ.treas.gov/crainfo.htm.

For more information on working with foreclosed real estate properties in creative ways to preserve affordable housing opportunities and stabilize communities, refer to the OCC's “Insights” report on Property Disposition, which is available on the OCC's Web site at <http://www.occ.treas.gov/cdd/Insights-PropertyDisposition.pdf>.

Resources on the Web

The OCC and other federal and nonprofit organizations are ready to help banks in their stabilization efforts.

The OCC's Community Affairs' Neighborhood Stabilization Resource Guide

Strategies to help mitigate negative effects of rising foreclosures on communities across the country are illustrated at www.occ.treas.gov/cdd/neighborstabilization.htm

HUD's NSP Sites

NSP program guidelines can be found at www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/

NSP action plans are posted on www.stablecommunities.org/node/1158

NSP contacts are listed at www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/contacts/index.cfm

Federal Reserve System's Homeownership and Mortgage Initiative

Presentations from neighborhood stabilization conferences are posted at <http://stlouisfed.org/rrrseries/default.html>

NeighborWorks America's StableCommunities.org

Strategies to help mitigate the negative effects of rising foreclosures on communities across the country can be found at www.stablecommunities.org/

National Vacant Properties Campaign: Reclaiming Vacant Properties

Resources, tools, and assistance to support vacant property revitalization efforts are listed at www.vacantproperties.org/

National Housing Conference's Foreclosure Prevention and Neighborhood Stabilization Resource Guide

Information about housing and affordable housing issues and about foreclosure prevention efforts and neighborhood stabilization initiatives can be found at www.nhcopenhouse.org/2008/08/foreclosure-prevention-and-neighborhood.html

National Community Stabilization Trust

Details about how NCST helps facilitate transfer of foreclosed and abandoned properties from financial institutions to local housing organizations are located at www.stabilizationtrust.com/

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